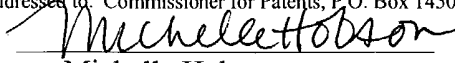


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Michelle Hobson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

C. CASE *et al.*

Application No.: 09/942,087

Filed: August 28, 2001

For: MODULATION OF ENDOGENOUS
GENE EXPRESION IN CELLS

Examiner: J. Brusca

Group Art Unit: 1631

Confirmation No: 7166

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OFFICE OF PETITIONS

PETITION PURSUANT TO 37 C.F.R. § 1.313(c)(2)

Commissioner for Patents
Alexandria, VA 22313

Sir:

This petition is filed pursuant to 37 C.F.R. § 1.313(c)(2) in order to withdraw the above-referenced application from issuance and in order to have a request for continued examination (RCE) pursuant to 37 C.F.R. § 1.114 considered. Accompanying this petition are:

- (1) a copy of the issue fee transmittal, submitted April 15, 2004; and
- (2) an RCE filed pursuant to 37 C.F.R. § 1.114, including accompanying Submission under 37 C.F.R. § 114(c).

Thus, the requirements of 37 C.F.R. § 1.313 (c)(2) have been met. Withdrawal of the application from issuance and consideration of the RCE and accompanying Submission is requested.

Respectfully submitted,

Date: May 13, 2004

By:



Dahna S. Pasternak


Registration No. 41,411

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Palo Alto, CA 94303

Tel.: (650) 493-3400; Fax: (650) 493-3440

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 Michelle Hobson	

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OFFICE OF PETITIONS

SUBMISSION UNDER 37 C.F.R. § 1.114(c)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This submission accompanies a Request for Continued Examination under 37 C.F.R. § 1.114 and a Petition for Withdrawal from Issue pursuant to 37 C.F.R. § 1.313(c)(2).

Applicants wish to make the Examiner aware of the prosecution of co-owned U.S. Patent Application No. 09/844,508. The claims in 09/844,508 have been provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claims 1-15 and 17-20 of the present application. *See* Office Actions of March 11, 2003; July 2, 2003; October 20, 2003 and February 25, 2004 and Responses mailed April 11, 2003; August 21, 2003; and December 2, 2003.

Although Applicants have vigorously traversed the double patenting rejection in 09/844,508 (and continue to do so), they nonetheless wish to bring it to the Examiner's attention.

Respectfully submitted,

Date: May 6, 2004

By: Sean Brennan

Sean M. Brennan
Registration No. 39,917

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